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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,229	10/07/2005	Wolfgang Dinkelacker	K0004/7006	6706

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LAW OFFICES OF PAUL E. KUDIRKA
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BOSTON, MA 02109.

EXAMINER

SINGH, SUNIL K

ART UNIT	PAPER NUMBER
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3732

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/27/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/552,229

Applicant(s)

DINKELACKER, WOLFGANG

Examiner

Sunil K. Singh

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 9-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 October 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 10/07/2005.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

1. The abstract of the disclosure is objected to because the abstract exceeds 150 words in length. Correction is required. See MPEP § 608.01(b).
2. The disclosure is objected to because of the following informalities: On page 5, the screw is referred to as both reference numeral "14" and "15". On page 7, the implant body is referred to as both reference numeral "30" and "3".

Appropriate correction is required.

Claim Objections

3. Claims 9 and 12-16 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to previous claims in the alternative only. Claim 9 sections "claims 7 and 8"; and Claims 12, 13, and 15 section "claims 8 and 9". See MPEP § 608.01(n). Accordingly, the claims 9 and 12-16 have not been further treated on the merits.

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5. Claims 10-16 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should not refer to a previous multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 10-16 have not been further treated on the merits.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Lustig et al (US 6,287,115).

Lustig et al. discloses an implant (10) having: an implant top portion (900) attached to an implant body (800) by means of screw (1000); a borehole that surrounds a through-borehole (825 and 915) for connection screw and a recess (905) with a supporting area designed as a truncated cone (Fig. 1-17) for the screw head (1015); a screw head that is designed as a female taper (1020) and also shown in Fig. 15; an implant top that is adapted to the profile of the implant body by means of a screw (Column 2, Lines 58-67). Lustig et al. further discloses an implant where the interface between the implant body and the implant top portion has a head that runs at a right angle to the longitudinal axis of the implant body (Figs. 15 and 43c); an interface between the implant body and the implant top that has a profile adapted to a comb shape of the jaw (Fig. 43c); a profile that is inclined toward the buccal side and the

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lingual side (Fig. 43c); and where the profile toward the buccal side and the lingual side is rounded and also has a bell shape (Figs. 1-17, 43b and 43c).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lustig et al. (US 6,287,115) in view of Durr et al. (US 5,026,280).

Lustig et al. discloses the invention substantially as claimed except for an implant top that is elastically deformable under pressure of a screw.

Durr et al. teaches an implant where the implant top (18) is elastically deformed under the action of a screw (Column 6, Lines 26-28). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Lustig by having an implant top that is elastically deformable under pressure of a screw, as taught by Durr, in order for a dental prosthetic to be mounted with elastic resiliency in all directions with respect to the implant body (Column 6, Lines 18-28).

Conclusion


10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892 Form.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunil K. Singh whose telephone number is (571) 272-3460. The examiner can normally be reached on Monday-Friday 8:30am-5pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris L. Rodriguez can be reached on (571) 272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Sunil K Singh
Examiner
Art Unit 3732

SKS
12/12/06



CRIS L. RODRIGUEZ
PRIMARY EXAMINER